distinctions drawn by the court between different sorts of *ultra vires* acts were perhaps relevant, and the facts deposed to would certainly seem to have warranted the dismissal of the writs.

ACCEPTANCE OF A DEED OF CONVEYANCE BY THE GRANTEE. — In the usual case of a conveyance of land, acceptance by the grantee constitutes part of the delivery of the deed. A good delivery may be effected, however, where the deed is given to a third party for the grantee, or even where the grantor himself retains possession of the instrument.[1] In these two latter instances the question arises, how far an acceptance by the grantee, independent of such delivery, is essential to the passing of title. The English courts, though somewhat wavering, take the position that no acceptance is necessary.[2] The American courts, while ostensibly almost unanimous in asserting the necessity of acceptance,[3] are really in conflict on the question. The apparent weight of authority holds that where the deed is beneficial to the grantee, acceptance will be presumed in the absence of actual dissent;[4] but a strong minority of decisions insists that even here actual assent by the grantee is a prerequisite to the passing of title.[5] How far the presumption doctrine has been carried is well illustrated by a recent Arkansas case, where a deed running to the wife, duly executed and delivered by the husband to a third party, was held to pass an immediate title, although it plainly appeared that the wife was ignorant of the existence of the deed until after the death of the grantor. *Russell* v. *May*, 90 S. W. Rep. 617.

The modern rule requiring a grantee's assent to a conveyance is said to have been established to obviate the practical difficulty of having title with its possible burdens forced upon an unwilling grantee, and is based, as a matter of theory, upon the conception that the transaction is contractual in its nature.[6] The fact that an insane person is capable of taking as a grantee[7] is, however, fatal to the theory of the doctrine; and, on the practical side, though the requirement of actual consent does rescue a grantee from forced burdens, it also deprives him of benefits, since the rights of attaching creditors and other third parties against the grantor accruing between the delivery and assent, must prevail against the grantee.[8] The presumption of acceptance in the case of beneficial grants substantially relieves the latter situation, but at the expense of grafting another odious fiction upon the law. One situation, however, even this doctrine fails to meet satisfactorily. Where land is conveyed upon trust the deed cannot be regarded as beneficial to the grantee, and the basis of the presumption must fail, thus defeating the trust. The courts, however, have squarely met this situation by vesting title in the trustee without his assent, subject to the right of disclaimer.[9] The same rule is applied in the case of title passing to a devisee,[10] a disclaimer in either

---

1 Thompson *v.* Candor, 60 Ill. 244; Exton *v.* Scott, 6 Sim. 31.
2 Thompson *v.* Leach, 2 Vent. 198; *cf.* Siggers *v.* Evans, 5 E. & B. 367.
3 But see Skipwith's Ex'r *v.* Cunningham, 8 Leigh (Va.) 271.
4 Mitchell *v.* Ryan, 3 Oh. St. 377; Wuester *v.* Folin, 60 Kan. 334.
5 Welch *v.* Sackett, 12 Wis. 243.
6 *Ibid.*
7 Campbell *v.* Kuhn, 45 Mich. 513.
8 Welch *v.* Sackett, *supra*; Knox *v.* Clark, 15 Col. App. 356.
9 Adams *v.* Adams, 21 Wall. (U. S.) 185; see Ames, Cases on Trusts, 2d ed., 229 n.
10 Tarr *v.* Robinson, 158 Pa. 60.

instance relating back so as to remove any burdens imposed. It is difficult to distinguish in principle between a conveyance upon trust and an absolute conveyance, so that the doctrine of title passing without the assent of the grantee subject to disclaimer would seem to be perfectly applicable to both cases, thus attaining the practical benefit of the rule requiring assent without incurring its objectionable features.[11]

LIABILITY OF CORPORATION DIRECTORS FOR NEGLIGENCE. — It is well settled that directors of corporations are personally liable to the corporation for losses caused by their negligence, but there is a wide variance in the language used by the courts to define the degree of care imposed upon them. The cases which profess to set the most severe standard cite Hun *v.* Cary[1] to support the proposition that directors are bound to use the high degree of care which men prompted by self-interest generally exercise in their own affairs. Other cases, like a recent Kentucky decision, purport to adopt a milder rule, for which Spering's Appeal[2] is relied upon, namely, that directors are liable only for carelessness so gross as to be conclusive evidence of fraud. *Ebelhar* v. *German American Security Co.'s Assignee*, 91 S. W. Rep. 262.

Differing so widely in their statement of the director's duty, the two groups of cases seem at first sight to be in sharp conflict, but an examination of their facts shows that, in reality, they are governed by the same rule. The correct principle, and the one actually underlying the decisions, is that directors in any corporation must devote the amount of care to the business which ordinary men would give under the circumstances.[3] Hun *v.* Cary[1] was an action against the directors of a savings bank, and the defendants were held to a high degree of care. As savings banks solicit the business of small depositors who are seeking safety for their earnings rather than a high rate of interest, and as the men who act as directors of such institutions realize that the confidence reposed in them by the depositors puts them in a fiduciary position, the decision was in harmony with the principle stated above. So high a standard has not yet been applied to cases other than those involving savings banks, but it seems that the same reasoning would apply to the directors of modern life insurance companies. In Spering's Appeal the corporation was conducted merely for profit, and the duty of care actually required was slight. This decision, too, conforms to the correct principle. The directors of an ordinary corporation are men who have not time to watch the details of the corporate business and who frequently do not understand them. They are not expected to devote the same amount of attention to the business as savings bank directors. As to their acts of commission, all that the law requires is that they exercise an honest judgment on the questions coming before them. They are not responsible for mistakes of judgment, however foreseeable they may have been, nor do they guarantee the possession in themselves of skill and business acumen.[4] When loss results because of their omissions, such as failure to detect dishonest employees, they are ordi-

---

[11] See 14 HARV. L. REV. 456; Tiffany Real Property, § 407.

[1] 82 N. Y. 65.
[2] 71 Pa. St. 11.
[3] Briggs *v.* Spaulding, 141 U. S. 132.
[4] Witters *v.* Sowles, 31 Fed. Rep. 1.